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Attorneys for Plaintiff Kathie Martin

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Kathie Martin,

Plaintiff,

- against -

Dan Mazer, Anthony Hines, Larry Charles,
Peter Baynham, Monica Levinson, Jay Roach,
Todd Phillips, Everyman Pictures, Twentieth
Century Fox Film Corporation, One America
Productions, Inc., Gold/Miller Productions,
Springland Films, Dune Entertainment, LLC,
MTV Networks d/b/a Comedy Central, Dakota
North Entertainment, Inc., Four by Two
Production Company, Sacha Baron Cohen,
Todd Schulman, and John Does Nos. 1-5,

Defendants.

Index No. 08 CV 1828 (LAP)

**DECLARATION OF ADAM RICHARDS IN OPPOSITION TO DEFENDNATS'
MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

I, ADAM RICHARDS, declare as follows:

1. My office represents Plaintiff Kathie Martin in the above-captioned action. I have personal knowledge of the facts and circumstances set forth herein.
2. Annexed hereto as Exhibit A are pages 4 through 9 of Plaintiff's Memorandum of Law in Opposition to Defendant's Motion to Dismiss the Complaint, dated April 8, 2008; Psenicska v. Twentieth Century Fox Film Corp., et al; Case No. 07 Civ. 10972.

3. Annexed hereto as Exhibit B is a copy of pages 151-52 of Gritten: Halliwell's Film Video & DVD Guide 2008 (Harper Collins 2007).

I declare under the penalty of perjury under the laws of the United States of America and the State of New York that the foregoing is true and correct and that this Declaration was executed in New York, New York on June 6, 2008.

s/ Adam Richards

Adam Richards

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MICHAEL PSENICKSKA,

Case No.: 07 CIV 10972 (LAP)

Plaintiff,

-against-

**TWENTIETH CENTURY FOX FILM
CORPORATION, ONE AMERICA
PRODUCTIONS, INC., TODD LEWIS, and
SACHA BARON COHEN,**

Defendants.

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS THE COMPLAINT**

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ATTORNEYS FOR PLAINTIFF

ARGUMENT

I. EVEN IF ENFORCEABLE, THE CONSENT AGREEMENT DOES NOT COVER A WORK OF FICTION SUCH AS THE BORAT FILM

Defendant Todd Lewis Shulman¹ told Psenicska that his production company, One America Productions, Inc., was producing a “documentary about the integration of foreign people into the American way of life.” *Complaint ¶ 13.*

The cover letter for the Consent Agreement was consistent with Shulman’s description: “Thanks very much for your interest in appearing in our Film. We’re glad that you want to appear in the Film to share your views or insights with the public.” (The letter did not define word “Film.”) *Hansen Decl., Ex. A.* The reasonable inference to be drawn from these simple words is that Psenicska will be interviewed for the purpose of expressing a point of view on a specific subject or relating an experience – not for the purpose of being a straight man in a comedy routine.

The Consent Agreement itself (at ¶ 1) was also consistent with Shulman’s description: “The Participant agrees to be filmed and audiotaped by the Producer for a documentary-style film (the “Film”).” *Hansen Decl., Ex. A.* These words do not even hint at the true nature of the Borat film, and defendants cannot conjure new meanings for them. The word “documentary,” as an adjective, means “(of a movie, a television or radio program, or photography) using pictures or interview with people involved in real events to provide a factual record or report: *he has directed documentary shorts and feature films;* as a noun, the word means “a movie or a television or radio program that provides a factual record or report.” *New Oxford American Dictionary* (Erin McLean, ed., 2d ed., New York: Oxford University Press, Inc. 2005). The word “–style,” as a suffix forming adjectives

¹ The Complaint does not mistakenly name this defendant as “Todd Lewis.” That was the name Shulman gave to Psenicska, and that was the name Shulman appeared to use when he signed the Consent Agreement, though some may discern the signature as illegible. *Hansen Decl., Ex. A.*

and adverbs, means: "in a manner characteristic of: *family-style* | *church style*." *Id.* Therefore, the phrase "documentary-style film" means a work displaying the characteristics of a film that provides a factual record or report, and the Borat film is not such a work. A documentary chronicles actual people in actual events and by definition cannot be a work of fiction. A film made in the style of a documentary is based on facts that can be documented by reliable sources, and such a film does not contain fictional characters engaging in deliberately outre behavior to comedic effect. This obvious conclusion may be derived from the application of settled canons of construction. See *Bauersfeld v. Board of Educ. of Morrisville-Eaton Cent. School Dist.*, 46 A.D.3d 1003, 1005, 846 N.Y.S.2d 809, 811 (3d Dep't 2007) (court "duty-bound" to "give words and phrases employed their plain meaning"); *Innophos, Inc. v. Rhodia, S.A.*, 38 A.D.3d 368, 374, 832 N.Y.S.2d 197, 203 (1st Dep't 2007) (words in a written contract "should not be unnaturally forced beyond their ordinary meaning"), *aff'd*, 10 N.Y.3d 25 (2008).

Applying only to a "documentary-style film" and making no reference to a work of fiction, the Consent Agreement by its terms does not apply to the Borat film.² See *Cahill v. Regan*, 5 N.Y.2d 292, 184 N.Y.S.2d 348 (1959) (a release may not be read to cover matters which the parties did not intend to cover); *Demaria v. Brenhouse*, 277 A.D.2d 344, 345, 716 N.Y.S.2d 99, 100 (2d Dep't 2000) (same).

Defendants' expression of "hope[] to reach a young adult audience by using entertaining content and features" does not lead to a contrary conclusion or even create a contrary impression. First of all, the phrase "entertaining content" is not a term of art and is not necessarily

² Defendants cannot be heard to say that the Borat film may be deemed a species of documentary. A true documentary is rarely a signatory to an agreement with the Screen Actors Guild, because actors do not appear in documentaries unless there are re-enactments of actual events. Containing no such re-enactments, the Borat film presented fictitious characters portrayed by paid professional actors who were SAG members.

understood to be limited to comedy or puerile satire. Many movie viewers, even young adults, would find a serious treatment of a topical issue to be entertaining. *See, e.g., Super Size Me* (2004, directed by Morgan Spurlock) (a demonstration of the physical and mental effects of consuming fast food and an examination of the food culture in America). Secondly, it's easy to list *bona fide* documentaries that a young adult audience would likely find entertaining: *Gimme Shelter* (1970, directed by Albert and David Maysles) (chronicle of Rolling Stones' 1969 tour, with much of the focus on the tragic concert at Altamont, California); *Let It Be* (1970, directed by Michael Lindsay-Hogg) (the recording of the Beatles' final album culminating in a performance by the band on the roof of Apple Records in London); *Woodstock* (1970, directed by Michael Wadleigh) (chronicle of legendary 1969 music festival); *The Last Waltz* (1978, directed by Martin Scorsese) (final concert of The Band); *Jazz On a Summer's Day* (1960, directed by Aram Avakian and Bert Stein) (1958 Newport Jazz Festival).

The phrase "documentary-style film" gave defendants the flexibility to produce a documentary in the style of any one of a number of sub-genres without having to answer to Psenieska about the method they chose to cover the topic of assimilating the foreign born into the American way of life. They could have followed the classic style of presenting archival footage mixed with interviews, as director Marcel Ophüls did in *The Sorrow and the Fury* (1972) (collaboration of France's Vichy government with Nazi Germany from 1940 to 1944; archival footage mixed with interviews of collaborators, resistance fighters, and observers). They could have varied the classic style by including dramatic re-enactments of actual events based on forensic evidence, as director Errol Morris did in *The Thin Blue Line* (1988) (arguing that a man was wrongly convicted for murder by a corrupt justice system in Dallas, this documentary combined dramatic re-enactments of the crime and the investigation with contemporaneous newspaper accounts and photographs of the case and with interviews of the suspects, defense counsel, and trial witnesses). They could have presented

their film in a news format in the style of CBS Reports, e.g., *Harvest of Shame* (1960, directed by Fred W. Friendly) (in this production broadcast on Thanksgiving, 1960, Edward R. Murrow reported on the plight of migrant farm workers in America). They could have followed the style of cinema verite, as directors Albert and David Maysles did in *Salesman* (1968) (Four relentless door-to-door salesmen deal with constant rejection, homesickness and burnout as they go across the country selling very expensive bibles to low-income Catholic families) and *Grey Gardens* (1975) (the bizarre and reclusive lives of Edith Bouvier Beale and her daughter Edie among cats and raccoons in a crumbling mansion in East Hampton). They could have included in their documentary-style film slow pans across sepia-toned photographs while professional actors read from news accounts, letters, or diaries – a technique used to interesting effect by Ken Burns in *The Civil War* documentary (1990).

At most, what defendants tout as a general release in the Consent Agreement, even if valid, pertains only to claims in relation to a “documentary-style film,” not a work of fiction like the Borat film. The so-called release in Paragraph 4 – by which Psenicska purported to waive “any claims against the Producer ... or anyone associated with the Film” – is limited by the definition of the “Film” in Paragraph 1. *See Morales v. Solomon Management Co.*, 38 A.D.3d 381, 382, 832 N.Y.S.2d 195, 196-97 (1st Dep’t 2007) (when “a release contains a recital of a particular claim, obligation or controversy and there is nothing on the face of the instrument other than general words of release to show that anything more than the matters particularly specified was intended to be discharged, the general words of release are deemed to be limited thereby”) (citations omitted); *Kaminsky v. Gamache*, 298 A.D.2d 361, 361-362, 751 N.Y.S.2d 254, 256 (2d Dep’t 2002) (“if from the recitals therein or otherwise, it appears that the release is to be limited to only particular claims, demands or obligations, the instrument will be operative as to those matters alone”); *Vines v. Gen.*

Outdoor Adver. Co., 171 F.2d 487, 492 (2d Cir.1948) (Hand, J.) (“[I]n a release[,] words of general import, followed or preceded by words relating to specific claims, are, ceteris paribus, limited to the specific claims”).

Because Psenicska did not give his consent for the use of his image or the exploitation of his services in a work of fiction, he may pursue his claims in this action. See *Fitzgerald v. Fahnestock & Co.*, 850 N.Y.S.2d 452, 453-54 (1st Dep’t 2008) (“the settlement agreement and release between petitioner and Fahnestock, which contained a recital of petitioner’s action against Fahnestock and their desire to settle the action, but no reference to petitioner’s employment or his employment agreement, is not necessarily a general release”); *Blog v. Sports Car Club of America, Inc.*, 254 A.D.2d 65, 66, 678 N.Y.S.2d 609, 610 (1st Dep’t 1998) (release of negligence claims arising out of go-kart race does not cover claims involving the design, manufacture, or sale of the go-kart); *Lanni v. Smith*, 89 A.D.2d 782, 783, 453 N.Y.S.2d 497, 498 (4th Dep’t 1982) (release referring to specific claims does not cover all claims arising from same accident, because “There is no phrase indicating that the release covers all claims arising from the accident”).

The cases cited by defendants in which a claim for commercial misappropriation was explicitly covered by a release are, perforce, inapposite. See *Myskina v. Conde Nast Publications, Inc.*, 386 F.Supp.2d 409, 416 (S.D.N.Y. 2005) (“The purported oral agreement contradicts the plain language of the Release”); *Ruffino v. Neiman*, 17 A.D.3d 998, 1000, 794 N.Y.S.2d 228, 229 (4th Dep’t 2005) (“the alleged misrepresentations … directly conflict with the terms of the written consent”); *Weil v. Johnson*, 2002 WL 31972157 (Sup. Ct. N.Y. Co.) (three “clearly worded” releases preclude claim under section 51 of the New York Civil Rights Law when the plaintiff’s “allegations are contradicted by the very face of the Release”). *Weil* is also distinguishable on another ground: The film in which the plaintiff appeared was exactly what had been orally described to him by the

producers – a documentary about the lives of children who had grown up very wealthy. Here, what both Todd Lewis Shulman and the Consent Agreement said about the documentary-style film and what was actually produced were two very different species of motion picture.

Defendants' strained interpretation of the Consent Agreement shows that they tried to write it to obfuscate, not elucidate – a point confirmed by Todd Lewis Schulman's signing a phony name. Defendants could have told Psenicska that he was being asked to appear in a motion picture portraying a fictional account of a staged journey across America by a fictional character whose *raison d'être* was to provoke base reactions from the unwitting. Of course, had they been forthright, defendants would have risked Psenicska's refusal to participate or risked the loss of spontaneity. Rather than face such risks, defendants chose to mask their intentions with outright lies and sleazy business practices. That choice, however, does not come without a consequence: Defendants cannot now impose their hidden intent on Psenicska. See *Gross v. Sweet*, 49 N.Y.2d 102, 110, 424 N.Y.S.2d 365, 369-70 (1979) ("In short, instead of specifying to prospective students that they would have to abide any consequences attributable to the instructor's own carelessness, the defendant seems to have preferred the use of opaque terminology rather than suffer the possibility of lower enrollment. But, while ... the law grudgingly accepts the proposition that men may contract away their liability for negligently caused injuries, they may do so only on the condition that their intention be expressed clearly and in unequivocal terms") (quotation omitted).

EXHIBIT B

HALLIWELL'S

THE ONLY FILM GUIDE THAT MATTERS

Film

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★★★★★ FILM REVIEW

DAVID GRITTEN

n the Moon (drama)
1946 90m bw
under Salkind)

E: El Moderno Berta Azul
cked sailor is mistaken for a mass and sent on the first expedition to

singly bad, feebly scripted and ade comedy in which Keaton one of his skill or invention, but through his role.

Trivas, Jaime Salvador d. Jaime m. George Tzaplin
Keaton, Angel Garasa, Virginia s. Barroso, Fernando Sotto
was never released in American and was hardly seen outside until its video release; it surfaces illy on television in a version that 78m.

Town ***
3 120m bw
n Zimbabw)

idly oil drillers strike it rich.
+ four-star, big-studio product of its id-wide entertainment of assured with a proven mix of romance, action, and comedy.

Lee Mahin story James Edward Jack Conway ph Harold Rosson
Waxman, ad Cedric Gibbons, Gable, Spencer Tracy, Claudette Hedy Lamarr, Frank Morgan, twill, Chill Wills
in high jinks, a wee child, and oom speeches about individual rise constitute the various come-a-scrambled and inept picture.' – *New York Herald Tribune*
colourful action in the oil fields and station indoors might have made it a picture.' – *Bosley Crowther*
id Rosson

terang! ***

47 88m bw
de Rechencourt)
England town, a clergyman is shot in the street. The DA prevents an man from being convicted, but track down the guilty party.
real life thriller based on a true case, hot in an innovative documentary which was much copied, and justice is to be done, though the murderer is to the audience. A milestone movie of

and Murphy d. Elia Kazan
Robert Brodin m. David Buttolph
hard Day, Chester Gore ed. Harmon

na Andrews (Henry L. Harvey), Jane (Mrs. Harvey), Lee J. Cobb (Chief ion), Cara Williams (Irene Nelson), Kennedy (John Waldron), Sam (Woods), Taylor Holmes (Wade), Keith (McGreery), Ed Begley

study of integrity, beautifully loped by Dana Andrews against a ground of political corruption and anery that is doubly shocking because a documentary understatement.' – *ard Wimington*

the first time in many a moon we are led to a picture that gives a good niple of a typical small American city – people, their way of living, their mode overture,

practised, the power of the press.' – Frank Ward, *National Board of Review*
Richard Murphy

'A Player Who's About To Be Played.'

Boomerang

US 1992 117m Technicolor
UP/Paramount (Brian Grazer, Warrington Hudlin)

An executive in a cosmetics firm has an unsuccessful affair with his boss before finding true love.

Dram comedy that substitutes gloss for wit and deprives its star of everything except uncritical adulation.

w Barry W. Blaustein, David Sheffield d Reginald Hudlin ph Woody Omens m Marcus Miller pd Jane Musky ed Earl Watson, John Carter, Michael Jiblowe ve Eddie Murphy, Robin Givens, Halle Berry, David Alan Geier, Martin Lawrence, Grace Jones, Geoffrey Holder, Eartha Kitt, Melvin Van Peebles

'This Eddie Murphy vehicle tries hard to be positive. It's a pity that the movie isn't any good.' – *Michael Sragow, New Yorker*
'An ill-fitting comedy vehicle that's desperately in need of a reality check.' – *Variety*

'Thy Kingdom Come. Thy Will Be Done.'

The Boondock Saints

US 2000 108m FotoKem
Franchise/Broad Syndicate (Elie Samaha, Lloyd Segar, Robert Fried, Chris Brinker)

In Boston, two brothers become vigilantes and kill bad guys.

Grossome and risible mix of religiosity and extreme violence with dialogue that consists of the rearrangement of four-letter words; Defoe gives one of his least appealing, over-the-top performances as a homophobic gay investigator.

w Troy Duffy ph Adam Kane m Jeff Danna pd Robert Devico ed Bill Deronde

Willem Dafoe (Paul Smecker), Sean Patrick Flaherty (Conner MacManus), Norman Reedus (Murphy MacManus), David Della Rocco (Rocco), Billy Connolly (Il Duce), David Ferry (Detective Dolly), Brian Mahoney (Detective Duffy).
'Mixes blood and Catholic-tinged vigilante justice in excessive portions for sometimes wacky and always brutal effect.' – *Robert Koehler, Variety*
Troy Duffy was working as a Boston barman when he sold the script of the movie to Miramax's Harvey Weinstein. The story of what happened next was told in the documentary *Oversight* (qv).

The Boost

US 1988 95m colour
Horndale/Becker-Blatt-Ponicsan (Daniel H. Blatt)

A fast-talking salesman and his wife are ruined by their addiction to cocaine.
Cautionary tale of an acquisitive society, coolly told.

w Darryl Ponicsan novel *Lulus* by Benjamin Stein d Harold Becker ph Howard Atherton m Stanley Myers ad Ken Hardy ed Maury Winetrobe
James Woods, Sean Young, John Kapelos, Steven Hill, Kelle Kerr, John Rothman, Amanda Blake, Grace Zabriskie

Das Boot; see *The Boot*

'When you don't know your next step... improvise.'

Bootmen

Australia/US 2000 95m Deluxe
Fox Searchlight/AFFO/Bootmen (Hillary Linstead, Dein Perry)

■ ■ ■

In the Australian steel town of Newcastle, a young, impulsive tap-dancing machinist recruits his mates to form a macho dance troupe that reflects their industrial background.

Formula drama enlivened by the vitality of its thunderous tap dancing.

w Steve Worland d Dein Perry ph Steve Mason m Cezary Skubiszewski ch Dein Perry pd Murray Picknett ed Jane Moran cos. Tess Schofield

Adam Garcia (Sean Okden), Sophie Lee (Linda), Sam Worthington (Mitch Okden), William Zappa (Walter), Richard Carter (Gary Okden), Susie Porter (Sara), Anthony Hayes (Huey)

'A vigorous re-working of the puttin'-on-a-show formula... great fun.' – *David Stratton, Variety*

The film's director Dein Perry was founder of the Australian dance troupe Tap Dogs.

Boots! Boots!

GB 1934 80m bw
Blakeley/John E. Blakeley

A simple hotel employee turns entertainer with the scullery maid. Formby's first film, based on a stage show, and filmed cheaply and with little imagination; the camera remains static as if the proceedings are being viewed from the stalls. It retains some slight interest as an example of popular entertainment of the period.

w Jack Cottrell, George Formby d Bert Tracey ph James S. Hodgson pd Harry Hudson ad Thomas Fleetwood

George Formby, Beryl Formby, Arthur Kingsley, Tomie Perde, Lillian Keyes, Donald Reid, Constance Fletcher, Wallace Bosco, Betty Driver

Boots Hill (drama)

Italy 1969 106m Technicolor
Techniscope
San Marco/Cromo
original title: *La Collina degli Stivali*

A man wounded and hunted by a gang of killers takes refuge with a travelling circus. Lively spaghetti Western that threatens to be more original than most, with its chase narrative concerned with greed and exploitation, but which finally settles, with the arrival of Bud Spencer at the halfway mark, for broad comedy, gunfights and pub brawls.

w Giuseppe Colizzi ph Marcello Masciocchi m. Carlo Rustichelli ad Gastone Carsetti ed Tatiana Morigi Casini

Terence Hill (Mario Girotti), Woody Strode, Bud Spencer (Carlo Pedersoli), Victor Buono, Lionel Stander, Edward Ciannelli, Luca Montefiori, Claudia Onorato

Boots Malone

US 1952 103m bw
Columbia (Milton Holmes)

■ ■ ■

A would-be jockey tags along with a down-at-heels agent who gets him work and finally persuades him not to throw a crooked race. Dullish racetrack melodrama bogged down by repetitive and unsympathetic plot twists.

w Milton Holmes d William Dieterle ph Charles Lawton m. Elmer Bernstein
William Holden, Johnny Stewart, Stanley

Clements, Basil Ruyssen, Carl Benton Reid, Ed Begley, Henry Morgan

Screenwriter Harold Buchman was excluded from the credits of the film because he was blacklisted at the time.

'Some guys will do anything for a little something.'

Boozy Call

US 1997 79m Deluxe
Columbia (John Morrissey)

■ ■ ■

Two couples decide to indulge in intercourse providing the men equip themselves with condoms.

A prolonged, comic commercial for safe sex that detumesces quickly.

w Takashi Bufford d Jeff Pollack ph Ron Orieux m. Robert Polk pd Sandra Kybartas ed Christopher Greenbury
Jamie Foxx, Tommy Davidson, Vivica A. Fox, Tamala Jones, Scott LaRose, Gedde Watanabe

'An oddly effective comic mix of the politically correct and outre stereotyping.'

– *Variety*

Art Malik appears uncredited.

Bophal!

US 1993 121m Deluxe
Paramount/Arsenio Hall/Taubman

■ ■ ■

In South Africa in 1980, a black policeman, living in a turbulent township, finds himself torn between supporting his repressive white boss or approving the actions of his outspoken son, who believes in revolution. A sincere, well-acted movie about apartheid and its consequences, but over-simplistic and too conventional in its approach.

w Brian Bird, John Wierick play Percy Mtwa d Morgan Freeman ph David Watkin m. James Horner pd Michael Philips ed Neil Travis

Danny Glover (Micah Mangena), Malcolm McDowell (De Villiers), Rosie Mangena (Alfre Woodard), Marius Weyers (Van Tonder), Maynard Ezishi (Zwelli Mangena), Malick Bowens (Pule Rampa), Michael Chinyamurindi (Solomon), Christopher John Hall (Naledi Machikano)

'A handsomely crafted, potently played drama that brings the issue of apartheid down to a visceral human dimension.' – *Leonard Klady, Variety*

'High five!'

'Very nice!'

Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan

US/UK 2006 84m
TCF/Four by Two/Everyman (Sacha Baron Cohen, Jay Roach)

■ ■ ■

A spoof in which Borat, a TV presenter in Kazakhstan, is ordered by his government to travel to America and report on its way of life, to educate his people. He interviews Americans about feminism, sex, etiquette, humour, politics and religion. He also falls for *Baywatch* star Pamela Anderson, who he sets out to marry and tries to kidnap. An unquestionably clever premise, with a straight-faced, apparently native foreigner eliciting outrageous, embarrassing responses from innocent, well-meaning and often reactionary Americans not in on the gag. Yet much of the film consists of gross-out humour best suited to adolescent boys. And is it really so groundbreaking to make evangelical Christians, rednecks and unsavoury



feminists figures of fun? Essentially, this is *Candid Camera* – with the unwelcome addition of anti-Semitic jokes that leave an unpleasant taste. Baron Cohen is skilled at thinking on his feet in tricky situations, and unafraid to place himself in physical danger for the sake of a scene. But one wonders at his motives: Is this film a brazen tilt at political correctness, a smug, superior in-joke, or a calculated, cynical attempt to shock?

Exasperatingly, it's a little bit of all three.

w Sacha Baron Cohen, Peter Baynham, Anthony Hines, Dan Mazer character *Borat* by Sacha Baron Cohen d Larry Charles ph Anthony Hardwick, Luke Geissbuhler m Erran Baron Cohen ad David Saenz de Maturana ed Peter Teschner, James Thomas

★ Sacha Baron Cohen (Borat), Ken Davitian (Azamat), Luennell (Luennell)

BORAT: 'Iak sic mass? (How are you?) My name-a Borat. I like you. I like sex. Is nice!' **BORAT (ABOUT WOMEN SEATED BESIDE HIM AT DINNER)**: 'In my country, they would go crazy for these two [indicates minister's wife]. This one... not so much...!'

'The brilliance of *Borat* is that its comedy is as pitiless as its social satire, and as bratty.' – *Mano Nola Dargis*, *New York Times*

'The more I think about the film, the less amusing it becomes.' – *Jason Saloman*, *Observer*

† Pamela Anderson appears uncredited as herself.

§ Adapted screenplay

The Border

US 1982 108m Technicolor Panavision Universal/RKO (Neil Hartley)

■ ■ ■ A Los Angeles cop joins the border patrol in El Paso and becomes involved in squalor, violence and double-dealing.

A rather solemn elaboration on a well-worn theme, with nothing very memorable except its excesses.

w Deric Washburn, Walton Green, David Freeman d Tony Richardson ph Ric Waite m Ry Cooder pd Toby Rafelson

ed Robert K. Lambert

★ Jack Nicholson, Harvey Keitel, Valerie Perrine, Warren Oates, Elpidio Carrillo

Border Incident

US 1949 93m bw

MGM (Nicholas Nayfack) Police stop the illegal immigration of labourers from Mexico.

Routine semi-documentary cops and robbers, well enough made.

w John C. Higgins d Anthony Mann ph John Alton m André Previn

★ Ricardo Montalban, George Murphy, Howard da Silva, James Mitchell, Alfonso Bedoya

Border Radio

US 1987 84m bw Coyote/Marcus de Leon

■ A punk rock musician goes on the run to Mexico after stealing money from a promoter who failed to pay him.

Probably a learning experience for those involved: the jerky narrative (one title reads '2 or 6 months later'), abrupt editing, deliberately inconsequential, improvised dialogue and amateurish acting suggest that its participants were determined to make a film but were uncertain of precisely how to do it.

wd Alison Anders, Dean Lent, Kurt Voss ph Dean Lent m Dave Alvin
★ Chris D., Luana Anders, Chris Shearer, John Doe, Dave Alvin, Iris Berry, Devon Anders, Texacala Jones
† The credits include: 'Many curses on: Those Who Tried To Tiltwrt Us'.

Border River

US 1953 80m Technicolor Universal-International (Albert J. Cohen)

In 1865, after stealing \$2m in gold from the Union to buy supplies for the South, a Confederate Major takes refuge in Zona Libre, a Mexican town controlled by a powerful outlaw, where others are determined to relieve him of the treasure. Western programmer that mixes action and romance in an unusual setting.

w William Sackheim, Louis Stevens d George Sherman ph Irving Glassberg m Joseph Gershenson ad Bernard Herzbrun, Richard H. Riedel ed Frank Fross

★ Joel McCrea (Clete Mattison), Yvonne de Carlo (Carmelita Carrias), Pedro Armendariz (General Calleja), Ivan Triesault (Baron Von Hollden), Alfonso Bedoya (Capt Vargas), Howard Petrie (Newlund), Erika Nordin (Annina Strasser), George J. Lewis (Sanchez), Nacho Galindo (Lopez), George Wallace (Fletcher), Lane Chandler (Anderson), Martin Garralaga (Guzman), Joe Bassett (Stanton), Salvador Baguez (General Robles), Felipe Turice (Pablo)

Border Shootout

US 1990 110m colour Turner/Phoenix

■ A naive rancher becomes the sheriff of a town in thrall to the crooked son of its largest landowner.

keep Western, in which the various strands of the narrative never quite come together, the acting is variable – from acceptable to bad – and the direction clumsy. Despite his star billing, Ford, whose mind seems to be on other things, plays a secondary role.

wd C. T. McIntyre novel *The Law at Randado* by Elmore Leonard ph Dennis Dalgell m Coley Music Group pd Craig B. Stein ed Grant Johnson

★ Glenn Ford, Charlene Tilton, Jeff Kaake, Michael Horse, Russell Todd, Cody Glenn, Sergio Calderon, Michael Ansara

Borderline

US 1980 97m colour ITC (Martin Starkey)

■ ■ ■ A Mexican border patrolman chases illegal immigrants and the big time crooks making money out of them.

Routine, quite effective action programmer.

w Steve Kline, Jerrold Freedman d Jerrold Freedman ph Tak Fujimoto m Gil Melle
★ Charles Bronson, Bruno Kirby, Karmen Murcelo, Michael Lerner, Ed Harris

Borderline: see *The Caretakers*

Bordertown

US 1934 80m bw

Warner (Robert Lord) In a North Mexican town, a shabby lawyer becomes infatuated with the neurotic wife of a businessman.

Satisfying melodrama whose plot climax was later borrowed for *They Drive by Night* (qv). w Laird Doyle, Wallace Smith

novel Carroll Graham d Archie Mayo

ph Tony Gaudio md Leo Forbstein

★ Paul Muni, Bette Davis, Margaret Lindsay, Eugene Pallette, Robert Barrat, Henry O'Neill, Hobart Cavanaugh

† A strictly box office film, well written and paced. – *Variety*

★ Blowing Wild (qv) was also a partial uncredited remake.

Bordertown Cafe

Canada 1991 95m colour Cineplex/East City/NFBC (Norma Bailey)

A woman running a small-town cafe has problems with her mother, son and truck-driving former husband.

Fraught and talkative soap opera of regrets and disappointments.

w Kelly Rebar d Norma Bailey ph Ian Elkin m Ben Mink pd John Blackie ed Lara Mazur

★ Susan Hogan, Janet Wright, Gordon Michael Woolvett, Sean McCann, Nicholas Campbell

Born Again

US 1978 110m Technicolor Robert L. Munger/Frank Capra Jr

■ Charles Colson, sent to prison after Watergate, becomes a devout Christian. Part evangelism, part reconstruction through rose-tinted spectacles, not particularly entertaining or instructive as either.

w Walter Block d Irving Rapper ph Harry Stradling Jr m Les Baxter
★ Dean Jones, Anne Francis, Jay Robinson, Dana Andrews, Raymond St Jacques, George Brent, Harry Spillman (Richard Nixon)

Born for Glory: see *Brown on Resolution*

Born for Troubles: see *Murder in the Big House*

Born Free

★ ★ GB 1966 95m Technicolor Panavision Columbia/Open Road (Carl Foreman/High Road/Atlas (Sam Jaffe; Paul Radin))

■ A Kenyan game warden and his wife rear three lion cubs, one of which eventually presents them with a family.

Irresistible animal shots salvage this rather flabbily put together version of a bestselling book. An enormous commercial success, it was followed by the even thinner *Living Free and To Walk With Lions* (qv), by a TV series, and by several semi-professional documentaries.

w Gerald L. C. Copley (Lester Cole) book Joy Adamson d James Hill ph Kenneth Talbot m John Barry
★ Virginia McKenna, Bill Travers, Geoffrey Keen

† Screenwriter Cole wrote under a pseudonym because he was blacklisted at the time.

★ John Barry; title song (m John Barry, b Don Black)

Born in East L.A.

US 1987 87m colour Universal (Peter MacGregor Scott)

■ ■ ■ An American Mexican is mistaken for an illegal immigrant and deported to Tijuana. Mercifully short brain-dead comedy.

wd Cheech Marin ph Alex Phillips m Lee Holdridge ed Don Brochu

★ Cheech Marin, Daniel Stern, Paul Rodriguez, Ian Michael Vincent, Kamala Lopez, Tony Plana

Born Losers

US 1967 112m colour AIP (Delores Taylor)

■ California teeny-boppers claim to have been gang-raped by wandering motorcyclists. Teenage shocker, only notable for its credit, and for being the first *Billy Jack* film.

wd Tom Laughlin ph Gregory Sandor m Mike Curb

★ Tom Laughlin, Jane Russell, Elizabeth Taylor, Jeremy Slate, William Wellman Jr
'It's so pokey and crudely obvious that it seems almost guileless – helplessly inept.' – *Pauline Kael*

'A true story of innocence lost and courage found.'

Born on the Fourth of July

US 1989 144m DeLuxe Paravision UIP/Orion (A Kitman Ho, Oliver Stone)

■ ■ ■ A crippled Vietnam veteran joins the anti-war movement.

Roaring drama, based on fact.

w Oliver Stone, Ron Kovic book Ron Kovic d Oliver Stone ph Robert Richardson m John Williams pd Bruno Ruben ad Victor Kemper, Richard L. Johnson ed David Brenner, Jon Hutsul

★ Tom Cruise (Ron Kovic), Bryan Lourd (Young Ron), Raymond J. Barry (Mr. Kovic), Caroline Kava (Mrs. Kovic), Jon Evans (Tommy Kovic), Seth Allan (Young Tommy), Jamie Talisman (Jimmy Kovic), Sean Stone (Young Jimmy), Anne Bader (Susanne Kovic), Jennie von Oy (Young Susanne)

§ Oliver Stone; best film editing

§ Tom Cruise; John Williams; best picture; best adapted screenplay; best cinematography

Born Reckless

US 1937 60m bw TCF

Big-town taxi drivers start a war among themselves.

Second-feature actioner, well enough done.

w John Patrick, Helen Logan, Robert E. Lee d Malcolm St Clair

★ Brian Donlevy, Rochelle Hudson, Barbara MacLane, Robert Kent, Harry Carey, Paul Moore, Chick Chandler

'Houses in the knuckle districts will get its best play.' – *Variety*

'Romance isn't dead... it's just not very well made.'

Born Romantic

GB 2000 97m DeLuxe Optimum/BBC/Harvest/Kismet (Michele Camarda)

■ In London three young men pursue the women at a salsa club. Episodic romantic comedy that is episodic fits and starts, though its over-schematic structure dampens the fun.

wd David Kane ph Robert Alazraki m Simon Boswell pd Sarah Greenwood ed Michael Parker

★ Craig Ferguson (Frankie), Ian Hart (Second Cab Driver), Jane Horrocks (Adrian Lester (Jimmy), Catherine McCormack (Jocelyn), Jimi Mistry (Mike), David Morrissey (Bergus), Olivia Williams (Eleanor), Kenneth Cranham (Barney), John Thomson (First Cab Driver), Paul Considine (Ray)

'Highly enjoyable when all its gags are clicking, but rarely as good as it should be.' – Derek Elley, *Variety*